

Remarks

The present amendment replies to the final Official Action mailed August 12, 2003. That action rejected claim 1 under the judicially created doctrine of obviousness type double patenting as being unpatentable over claim 1 of Blanford et al. U.S. Patent No. 6,158,660 ("Blanford"). Claims 1-7 and 9-19 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kaslow U.S. Patent No. 3,959,624 ("Kaslow") in view of Gupta U.S. Patent No. 5,382,779 ("Gupta"). Claim 8 was rejected under 35 U.S.C. 103(a) as being unpatentable over Kaslow in view of Gupta and further in view of Feng et al. U.S. Patent No. 5,783,811 ("Feng"). These grounds for rejection are addressed below following a brief discussion of the present invention to provide context.

Claims 1 and 11 have been amended to be more clear and distinct. Claim 20 has been added. Claims 1-19 are presently pending.

The Present Invention

The present invention includes a system in which a supplemental bar code label can be used to supplement a presently existing primary bar code label attached to an item offered for sale, for example, in a grocery or retail environment in which products are scanned as part of the checkout process. The presently existing label may provide, for example, information about product identity, and the supplemental label may provide supplemental information, such as an indication that the item has been marked down.

According to one aspect, an improved scanner according to the present invention determines when a supplemental label is likely to be present by tracking past experience. If a scan has occurred in which a particular primary label has been detected in conjunction with a supplemental label, the scanner stores this experience and similar experiences, in order to identify a primary label or labels which are likely to be accompanied by a supplemental label. Each bar

code appearing on a primary bar code label is stored in a database along with a value reflecting the expected probability that the primary label bearing the bar code will be accompanied by a supplemental label. If a primary bar code label is subsequently detected in a scan and a supplemental bar code label is not immediately detected, the scanner searches the database for the bar code and retrieves the value associated with the bar code. Depending on the value associated with the bar code, the scanner may refrain from searching for a supplemental label, may conduct a standard default search for a supplemental label, may conduct a search based on the retrieved value or may conduct an indefinite search for a supplemental label until one is found or until the operator intervenes to force an end to the search. Alternatively, a central database of primary bar code labels may be maintained at a retail location or elsewhere and downloaded to each of a plurality of scanners operating at the retail location. Such a database may be built from ongoing scanning experience of each of the scanners, or alternatively may be constructed from known information about which bar codes will be accompanied by supplemental labels codes and the likelihood for each bar code that it will be accompanied by a supplemental label.

The Double Patenting Rejection

While applicants do not acquiesce in this ground of rejection, a terminal disclaimer is submitted herewith.

The Art Rejections

The Official Action rejected claims 1-7 and 9-19 under 35 U.S.C. 103(a) as being unpatentable over Kaslow in view of Gupta. Claim 8 was rejected under 35 U.S.C. 103(a) as being unpatentable over Kaslow in view of Gupta and further in view of Feng. These rejections are respectfully traversed as not supported by the relied upon art. The relied upon art does not

anticipate and does not render obvious the presently amended claims, as addressed in greater detail below.

Kaslow is entitled "Coded Merchandising Coupon" and describes a system for processing coupons which are utilized in retail environments to provide specified discounts on purchased items. A first UPC symbol printed on a coupon is identical to the UPC symbol on a corresponding merchandise item, while a second UPC symbol printed on the coupon indicates that a discount condition exists. Kaslow teaches that after a cashier has scanned all of the items a customer has selected for purchase, the cashier causes the checkout terminal to enter coupon analysis mode. The cashier then scans the coupon and the checkout terminal verifies that the customer purchased the matching item. The specified discount amount is then deducted from the total.

As described above, in one aspect, the present invention provides advantageous techniques related to the detection and processing of both a primary bar code label and a supplemental bar code label attached to an item offered for sale by basing the search for the supplemental bar code on stored information associated with the primary bar code. The length of time spent searching for the label is determined by the retrieved value. In contrast to Kaslow, as claimed in amended claim 1, the present invention includes a controller with "the controller being operative upon detection of the primary bar code label to search a database for the bar code represented by the primary bar code label and retrieve a value associated with the bar code, the controller being operative to conduct a search for a supplemental bar code label based on the retrieved value associated with the retrieved bar code, wherein *the retrieved value determines the time to be spent searching for the supplemental bar code label.*" (emphasis added) See also claim 11, for example, which recites the step of "conducting a search for a supplemental label in accordance with the value associated with the bar code information, *the retrieved value determining the time to be*

spent searching for the supplemental bar code label." (emphasis added) Kaslow does not teach and does not render obvious such a technique. Kaslow merely uses the first UPC symbol to determine if an item was purchased and the second UPC symbol to determine a discount amount.

In contrast to Kaslow, the present invention utilizes retrieved information associated with the primary bar code to control the search for the primary bar code. For example, the retrieved information may represent the degree of difficulty in detecting a supplemental label likely to accompany a particular label. See claim 6, which recites "wherein the value associated with each of the bar codes represents a degree of difficulty in detecting a supplemental label likely to accompany a primary label bearing the bar code." A higher degree of difficulty might require a longer search period. As another example, the retrieved information may instruct the scanner that certain bar codes are more likely than others to have a supplemental bar code, allowing the terminal to only search for a supplemental bar code on those items. See claim 5, for example, which recites "wherein the value associated with each of the bar codes reflects a probability that a primary label bearing the bar code will be accompanied by a supplemental label." See also claim 18 which recites that "the retrieved value indicates a frequency of occurrence of the supplemental bar code label." Kaslow does not teach and does not render obvious such techniques.

The remaining references do not cure the failings of Kaslow as a reference. Gupta is relied upon merely to show a laser for generating light and a video receiver assembly for detecting light. Feng is relied upon to show providing operator feedback upon the detection of a bar code label.

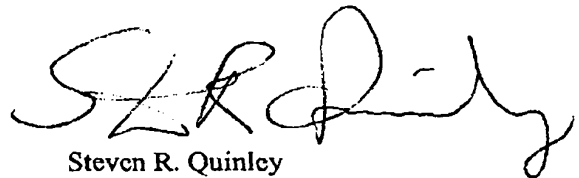
Nothing in the cited references indicates a recognition of the problems addressed by the present invention. Further, nothing in the cited references teaches or suggests an apparatus which would solve the problems addressed by the present invention in the manner solved by the present

invention. To sum up, the claims as presently amended are not taught, are not inherent, and are not obvious in light of the art relied upon.

Conclusion

All of the present claims defining over the relied upon art, prompt allowance of the claims is in order.

Respectfully submitted,



Steven R. Quinley
Registration No. 47,012
Priest & Goldstein, PLLC
5015 Southpark Drive, Suite 230
Durham, NC 27713
(919) 806-1600

RECEIVED
CENTRAL FAX CENTER

OCT 9 9 2003

OFFICIAL